



MASSACHUSETTS DEPARTMENT OF REVENUE CORPORATE EXCISE

MAXIMUM CREDITS ALLOWED FOR USE IN ANY ONE TAX YEAR; TREATMENT OF UNUSED CREDITS

NOTE: For simplicity, this Directive deals only with the investment tax credit and corporations taxable under G.L. c. 63, §§ 32 and 39. With the exception of the 3-year carryover rule of G.L. c. 63, § 31A(g), the rules apply to other credits as well.

Part I

ISSUE: What is the maximum amount of investment tax credits a corporation can use against its excise in the current tax year?

DISCUSSION: G.L. c. 63, § 32C provides that the maximum amount of credits to be used in any one tax year cannot exceed 50% of the corporate excise imposed by § 32 or § 39. In addition, § 31A(c) restricts the use of investment tax credits by prohibiting the reduction of the corporate excise below the \$456 minimum tax imposed by § 32(b).

Therefore, when the excise before credits is equal to or greater than twice the minimum tax (\$912 or more), § 32C applies and the maximum amount of credits which can be used in that year equals 50% of the excise before credits. (See Example 1). When the excise before credits is more than \$456 but less than \$912, § 31A(c) applies and the maximum amount of credits which can be used in that year equals the excise before credits minus \$456. (See Example 2). When the excise before credits is \$456 or less, § 31A(c) precludes the use of any credits.

The examples below illustrate these rules.

EXAMPLE 1: Simpel Corporation has an excise before credits of \$1,000 and \$1,200 of available credits. Applying the 50% limitation of § 32C, Simpel Corp. will use \$500 of its available credits to reduce its excise to \$500.

EXAMPLE 2: Beetwin Corporation has an excise before credits of \$800 and \$900 of available credits. Applying the minimum tax limitation of § 31A(c), Beetwin Corp. will reduce its excise to the minimum tax of \$456 by using \$344 of its available credit. The 50% limitation of § 32C does not apply because it would allow \$400 of credits to be used thereby reducing the excise to \$400, an amount below the minimum tax.

EXAMPLE 3: Beelo Corporation has an excise before credits of \$400 and \$1,000 of available credits. Beelo Corp. will pay the minimum tax of \$456 and under the limitation of § 31A(c) it will not be able to use any credits in this tax year.

Part II

ISSUE: What happens to the portion of a corporation's available credits which cannot be used in the current tax year?

DISCUSSION: Available credits which cannot be used in the current tax year may be carried over to other years if they qualify for carryover status under G.L. c. 63, § 31A(g) or § 32C.

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Under § 31A(g) a corporation may carry over for three tax years any unused investment tax credit generated from a qualified asset placed in service in the current year. Under § 32C, any credits which could not be used because credits cannot reduce the corporate excise by more than 50%, may be carried forward indefinitely. When the excise before credits is less than twice the minimum tax (less than \$912), the maximum amount of credits which can be converted to unlimited carryover status equals 50% of the excise before credits and before the minimum tax is imposed. (See Example 6).

The following examples illustrate these rules.

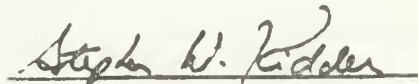
EXAMPLE 4: Carri Corporation has an excise before credits of \$2,000 and \$2,200 of available investment tax credit generated from a qualified asset placed in service this tax year. Carri Corp. will use \$1,000 of its credit to reduce its excise to \$1,000. Of the remaining \$1,200 of credits, \$1,000 will be carried forward indefinitely since these credits could not be used in the current year by operation of the 50% limitation under § 32C. The remaining \$200 of unused credits can be carried over for three tax years.

EXAMPLE 5: Ovar Corporation has an excise before credits of \$2,000 and \$3,000 of available investment tax credit carryover all of which will lapse if not used in the current tax year. Ovar Corp. will use \$1,000 of its credit to reduce its excise to \$1,000. Of the remaining \$2,000 of credits, \$1,000 will be carried forward indefinitely because of § 32C and \$1,000 will lapse.

EXAMPLE 6: Smalle Corporation has an excise before credits of \$200 and \$1,200 of available investment tax credit generated from a qualified asset placed in service this tax year. Smalle Corp. will pay the minimum tax of \$456 and will not be able to use any credits in this tax year. However, 50% of the excise before credits (\$100) will be carried over indefinitely because of § 32C and the remaining \$1,100 of credits will be carried over for three tax years.

REFERENCE: G.L. c. 63, §§ 31A(c), (g), 32, 32C, 39.

December 31, 1988



Stephen W. Kidder
Commissioner of Revenue

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This Directive represents the official position of the Department of Revenue on the application of the law to the facts as stated. The Department and its personnel will follow this Directive, and taxpayers may rely upon it, unless it is revoked or modified pursuant to 830 CMR 62C.01(5)(e). In applying this Directive, however, the effect of subsequent legislation, regulations, court decisions, Directives, and TIRs must be considered, and Department personnel and taxpayers may rely upon this Directive only if the facts, circumstances and issues presented in other cases are substantially the same as those set forth in this Directive.